

Richard J. Reynolds, Esq.  
Nevada Bar No. 11864  
TURNER, REYNOLDS, GRECO & O'HARA  
16485 Laguna Canyon Road, Suite 250  
Irvine, California 92618  
Telephone: (949) 474-6900  
Facsimile: (949) 474-6907  
E-mail: rreynolds@trlawyers.com

Michael E. Sullivan, Esq.  
Nevada Bar No. 5142  
ROBISON, BELAUSTEGUI, SHARP & LOW  
71 Washington Street  
Reno, NV 89503  
Telephone: (775) 329-3151  
Facsimile: (775) 329-7941  
E-mail: msullivan@rbsllaw.com

**Attorneys for Defendant, MTC FINANCIAL INC. dba TRUSTEE CORPS**  
(erroneously sued as MTC FINANCIAL, INC. dba TRUSTEE CORPS)

UNITED STATES DISTRICT COURT

STATE OF NEVADA

CASE NO. \_\_\_\_\_

(Clark County Case No. A-11-649857-C)

**PETITION FOR REMOVAL BY  
DEFENDANT MTC FINANCIAL INC.  
dba TRUSTEE CORPS**

JEFFREY BENKO, a Nevada resident;  
CAMILO MARTINEZ, a Nevada resident;  
ANA MARTINEZ, a Nevada resident;  
FRANK SCINTA, a Nevada resident;  
JACQUELINE SCINTA, a Nevada resident;  
SUSAN HJORTH, a Nevada resident;  
RAYMOND SANSOTA, a Ohio resident;  
FRANCINE SANSOTA, a Ohio resident;  
SANDRA KUHN, a Nevada resident;  
JESUS GOMEZ, a Nevada resident;  
SILVIA GOMEZ, a Nevada resident;  
DONNA HERRERA, a Nevada resident;  
ANTOINETTE GILL, a Nevada resident;  
JESSE HENNIGAN, a Nevada resident;  
KIM MOORE, a Nevada resident;  
THOMAS MOORE, a Nevada resident;

Plaintiff,

vs.

QUALITY LOAN SERVICE  
CORPORATION, a California Corporation;  
APPELTON PROPERTIES, LLC, a Nevada  
Limited Liability Company; MTC  
FINANCIAL, INC. dba TRUSTEE CORPS,  
a California Corporation; MERIDIAN  
FORECLOSURE SERVICE, a California

1 and Nevada Corporation dba MTDS, Inc., )  
 2 dba MERIDIAN TRUST DEED SERVICE; )  
 3 NATIONAL DEFAULT SERVICING )  
 4 CORPORATION, a Arizona Corporation; )  
 5 CALIFORNIA RECONVEYANCE )  
 6 COMPANY, a California Corporation; and )  
 7 DOES I through 100, inclusive, )  
 8 Defendants. )

9 Defendant MTC FINANCIAL INC. dba TRUSTEE CORPS (erroneously sued as MTC  
 10 FINANCIAL, INC. dba TRUSTEE CORPS) ("TRUSTEE CORPS") submits this Petition for  
 11 Removal of the above-captioned lawsuit entitled JEFFREY BENKO vs. QUALITY LOAN  
 12 SERVICE CORPORATION, etc., et al., as Case No. A-11-649857-C, originally assigned to  
 13 Dept. VIII then reassigned to Dept. XXXII, in the District Court located in Clark County,  
 14 Nevada ("State Court") to this Court pursuant to 28 U.S.C. §§ 1331, 1332(d)(2), 1332(d)(5)(B),  
 15 1441, 1446, and 1453(a).

#### 16 COMPLIANCE WITH PROCEDURAL REQUIREMENTS

17 1. TRUSTEE CORPS was served with a copy of Plaintiffs' State Court first  
 18 amended complaint ("FAC") on or about January 24, 2012. It was never served with the  
 19 original complaint. Thus, this removal is timely because the 30-day period for filing the  
 20 removal has not passed. 28 U.S.C. §1446(b). Additionally, removal is timely because it is  
 21 filed within one year from when Plaintiffs started the State Court action on October 12, 2011.

22 2. Pursuant to 28 U.S.C. §1446(a), TRUSTEE CORPS has attached a true and  
 23 correct copy of the original complaint and FAC as **Exhibits "A and B, respectively."**  
 24 Attached as **Exhibit "C"** is a true and correct copy of Plaintiffs' Notice of Pendency of Action  
 25 filed October 13, 2011, which copy TRUSTEE CORPS obtained from the State Court.

26 3. TRUSTEE CORPS has provided and served a copy of the Petition for Removal  
 27 on Plaintiffs and will timely file a copy of the Petition for Removal with the Clerk of the State  
 28 Court as required by 28 U.S.C. §1446(d).

4. TRUSTEE CORPS is informed and believes and hereon alleges that no other  
 Defendant has appeared to date.

5. Removal from State Court to this Court is proper as this district embraces the place where the action is pending 28 U.S.C. §1441(a).

## BACKGROUND

6. Plaintiffs have asserted in their FAC class action claims for consumer fraud, unjust enrichment, and trespass against all defendants, a class action claim for elder abuse against Meridian Foreclosure Service (“Meridian”), and a sham and misjoined claim of quiet title against by Antoinette Gill against Appleton Properties.

## FEDERAL QUESTION

7. Plaintiffs make a charge in the first count of alleged violation of N.R.S. 598.0923(1) [“A person engages in a ‘deceptive practice’ when... he or she knowingly: 1. Conducts the business or occupation without all required state, county or city licences.”]. This claim is based on purported violations of N.R.S. 649.075 and 649.171 [“debt collector license required”]. The term “debt collection” (and violation thereof) in turn depends on how the term is defined in Nevada pursuant to N.R.S. 649.370. In this regard, the latter statute refers exclusively and coextensively to 15 U.S.C. §§1682, 1692 et seq. (Federal Fair Debt Collection Practices Act) (“FDCPA”) for the definition of debt collection (and the violation thereof). Thus, federal question jurisdiction exists because resolution of the state claim necessarily requires or turns on the construction of the above federal law with respect to the definition of “debt collection.” See, Smith v. Community Lending, Inc., 773 F.Supp.2d 941,945,946 (D.Nev. 2011); Chase v. United Residential Mortgage, LLC, 2011 WL 198008 (D.Nev.)\*1-3.

**MINIMUM DIVERSITY OF CITIZENSHIP PURSUANT TO**  
**CLASS ACTION FAIRNESS ACT (“CAFA”)**

8. There are at least 100 class members in the proposed Plaintiffs' classes. 28 USC §1332(d)(5)(B). Indeed, Plaintiffs claim the class is composed of thousands of Nevada residents (FAC, ¶23).

9. The combined claims of all class members allegedly exceeds \$5 million exclusive of interest and costs. 28 USC §1332(d)(2)(6). If at a minimum the class purportedly consisting of “thousands of Nevada residents” allegedly totals least 1,000 residents and each purportedly

1 suffered the amount pleaded of in excess of \$10,000 (Complaint, ¶¶34, 42, and 60), the  
2 combined claims of the class are alleged to be \$10 million at a minimum.

3 10. Any class member (named or not) is a citizen of a different state than any  
4 defendant. 28 USC §1332(d)(2)(A).

5 A. TRUSTEE CORPS is a California Corporation, whose corporate status is  
6 active in Nevada, and whose principal place of business is Irvine,  
7 California.

8 B. TRUSTEE CORPS is informed and believes that Defendant Quality Loan  
9 Service Corporation is a California Corporation with its principal place of  
10 business in San Diego, California.

11 C. TRUSTEE CORPS is informed and believes that Defendant National  
12 Default Servicing Corporation is an Arizona Corporation with its principal  
13 place of business in Phoenix, Arizona.

14 D. TRUSTEE CORPS is informed and believes that Defendant California  
15 Reconveyance Company is a California Corporation with its principal  
16 place of business in Chatsworth, California.

17 E. TRUSTEE CORPS is informed and believes that Defendant Meridian  
18 Foreclosure Service is a California Corporation with its principal place of  
19 business in Las Vegas, Nevada

20 F. It is alleged the class is made up of Nevada residents and certain named  
21 Plaintiffs, Raymond Sansota and Francine Sansota, now reside in Ohio as  
22 of the filing of the original complaint. There are no Defendants who are  
23 citizens of Ohio.

24 Therefore, class members are citizens of a different state than any defendant. Thus, diversity  
25 is pleaded pursuant to CAFA.

26 11. The naming of Defendant Appleton Properties as a defendant and Plaintiff  
27 Antoinette Gill's third claim for quiet title constitute a sham. Firstly, the claim appears to  
28 incorporate alleged facts in support for which federal question jurisdiction exists—specifically,

1 resolution of the quiet title claim appears to turn on the construction of the definition of “debt  
2 collection” under FDCPA. No independent factual basis is pleaded for the claim.

3 In Nevada, a quiet title action may be brought “by any person against another who claims  
4 an ... interest in real property, adverse to the person bringing the action, for the purpose of  
5 determining such adverse claim.” N.R.S. 40.010; Lasao v. Stearns Lending Co., 2011 WL  
6 3273923 at \*8-9 (D.Nev.). A quiet title action is an equitable proceeding for the adjudication  
7 of *disputed* ownership of real property rights. *See, Howell v. Ricci*, 197 P.3d 1044, n. 1 (Nev.  
8 2008). Here, *the property went to sale*, and foreclosure trustees, which are the defendants in  
9 this case, *have no interest or ownership in the subject real property*. Thus, the quiet title claim  
10 constitutes a fraudulent misjoinder because it has no connection to the alleged class action  
11 claims made against the foreclosure trustees. None of the foreclosure trustees named has any  
12 liability under this claim.

13 The claim does not plead Plaintiff Antionette Gill tendered what was owed on the claim.  
14 Because quiet title is an action in equity, it is widely accepted that the party seeking to remove  
15 a claim to his or her title must tender any undisputed amounts owed in order to challenge the  
16 validity of a sale. Lasao v. Stearns Lending Co., *supra*, 2011 WL 3273923 at \*8; Reyna v.  
17 Wells Fargo Bank, N.A., 2011 WL 2690087 at \*2 (D.Nev.); Provenzano v. Clark County, 73  
18 Nev. 348, 353, 319 P.2d 855 (1957) (allowing action to quiet title where Plaintiff also tendered  
19 all amounts due). The amount to be tendered would go to the lender, but the lender, a necessary  
20 and essential party, is not named to quiet title claim. The above necessary requirements to quiet

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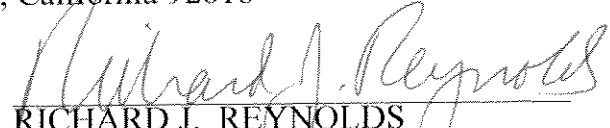
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1 title are not pleaded. Thus, the quiet title claim is a sham claim not intended to be prosecuted  
2 but is asserted to attempt to destroy diversity under CAFA.

3 DATED this 13<sup>th</sup> day of February, 2012.

4 **TURNER, REYNOLDS, GRECO & O'HARA**  
5 16485 Laguna Canyon Road, Suite 250  
6 Irvine, California 92618

7 By:

  
8 **RICHARD J. REYNOLDS**  
9 Attorneys for Defendant, MTC  
10 **FINANCIAL INC. dba TRUSTEE CORPS**

11 **MICHAEL SULLIVAN**  
12 **ROBISON, BELAUSTEGUI, SHARP & LOW**  
13 71 Washington Street  
14 Reno, NV 89503

15 Attorneys for Defendant, MTC  
16 **FINANCIAL INC. dba TRUSTEE CORPS**  
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**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of TURNER, REYNOLDS, GRECO & O'HARA, and that on February 14, 2012, I caused to be served a true copy of the **PETITION FOR REMOVAL BY DEFENDANT MTC FINANCIAL INC. dba TRUSTEE CORPS** on all parties to this action by the method(s) indicated below:

☒ by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Irvine, California, addressed to:

Nicholas A. Boylan, Esq.  
LAW OFFICES OF NICHOLAS A. BOYLAN, APC  
450 A Street, Suite 400  
San Diego, CA 92101  
Email: nablawfirm@gmail.com  
*Attorneys for Plaintiffs*

  
GERI K. TOOLEY